



California Department of Fish and Wildlife  
Marine Region  
1933 CLIFF DRIVE, SUITE 9  
SANTA BARBARA, CA 93109

California Endangered Species Act  
Incidental Take Permit No. 2081-2023-053-07

**HUMBOLDT BAY MASTER SEAWATER INTAKES PROJECT**

**I. Authority:**

This California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the take<sup>1</sup> of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.<sup>2</sup> However, CDFW may authorize the take of any such species by permit pursuant to the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c). (See Cal. Code Regs., tit. 14, § 783.4.)

<b>Permittee:</b>	<b>Humboldt Bay Harbor, Recreation and Conservation District</b>
<b>Principal Officer:</b>	<b>Rob Holmlund, Director of Development</b>
<b>Contact Person:</b>	<b>Rob Holmlund, (707) 443-0801 ext. 122</b>
<b>Mailing Address:</b>	<b>601 Startare Drive Eureka, CA 95501</b>

**II. Effective Date and Expiration Date of this ITP:**

This ITP is effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **December 31, 2035**.

Notwithstanding the expiration date on the take authorization provided by this ITP, the Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 6.7 of this ITP.

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<sup>1</sup>Pursuant to Fish and Game Code section 86, "'take' means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 [for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), "'take' ... means to catch, capture or kill".])

<sup>2</sup>The definition of an endangered, threatened, and candidate species for purposes of CESA are found in Fish and Game Code sections 2062, 2067, and 2068, respectively.

### III. Project Location:

The Humboldt Bay Master Seawater intakes Project (Project) is located at two separate locations within the city of Samoa, Humboldt County (See Figure 1). Project location 1, referred to as Redwood Marine Terminal (RMT) II Dock extends approximately 600 feet into the Samoa Channel in Humboldt Bay. Project location 2, referred to as the Red Tank Dock, is a wooden dock also located within the Samoa channel approximately 2,900 feet north of the RMT II Dock, and extended approximately 150 feet into Humboldt Bay. The RMT II Dock is located at approximately 40.804145, -124.189306, approximately 1.6 miles southwest of the Highway 255 bridge on the western shoreline of Humboldt Bay. The Red Tank Dock is located at approximately 40.811433, -124.186213, approximately 1 mile southwest of the highway 255 bridge on the western shoreline of Humboldt Bay.

### IV. Project Description:

The Project includes the installation and operation of two seawater intake systems in Humboldt Bay. The intake of water is proposed to be increased over time and is anticipated to occur in three phases. Phase I water intake is expected to begin in 2027 and withdraw approximately 2.66 million gallons per day (MGD). Phase II water withdraw is expected to begin in 2032 and withdraw an additional 7.34 MGD, for a daily withdraw of approximately 10.00 MGD. Phase III water withdraw is expected to begin in 2034 and withdraw an additional 1.88 MGD for a cumulative intake water volume of 11.88 MGD.

Project activities include installation, operation, and maintenance of the two seawater intakes, removing two existing fish screens, installing two new fish screens on seawater pumps, and installing piping to transfer seawater to Humboldt Bay Harbor, Recreation and Conservation District (District) tenants. The new fish screens will be a cylindrical T-shaped design and be constructed with a stainless steel wedge wire screen with 0.5 mm spacing between wedge wires, 36% open screen area, a compressed air automatic self-cleaning system and flow modifiers to evenly distribute flow across the screen face. Installation and removal of the protective fish screens will be conducted from a boat with divers assisting to place the screen and bolt the screen to the existing infrastructure. In addition to the fish screen installation, small quantities of accumulated sediment will be removed prior to screen installation. Sediment removal may be completed using mechanical equipment and divers or a suction dredge. Sediment removed will be taken to either a permitted sediment dewatering site at the RMT II or to another CDFW-approved disposal location. Prior to screen operation, minor infrastructure updates at the RMT II Dock will be conducted to repair and seal cracks around the existing wooden intake structure. Water line improvements will require terrestrial work consisting of trenching and installation of three manifolds to transport water to existing and future seawater users.

### V. Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name

CESA Status<sup>3</sup>

<sup>3</sup> Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species.

1. Longfin smelt (*Spirinchus thaleichthys*)

Threatened<sup>4</sup>

This species and only this species is the “Covered Species” for the purposes of this ITP.

**VI. Impacts of the Taking on Covered Species:**

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include routine operation of the seawater intakes, sediment removal and dredging, and routine maintenance of intake infrastructure (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as entrainment and/or impingement of the Covered Species during operation of the seawater intakes. Early life stages of the Covered Species are primarily planktonic or have very poor swimming ability; and the Covered Species may not be able to avoid impingement or entrainment if present within the vicinity of the intake during operation. The areas where authorized take of the Covered Species is expected to occur include: RMT II, Red Tank Dock, and the immediate source water body in the areas adjacent to the seawater intake structures at RMT II Dock and Red Tank Dock. (collectively, the Project Area).

Each Phase of the Project is expected to cause permanent loss of habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project’s incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from pump operation, and long-term effects due to continued intake of water with future increases in volume, and displacement from available habitat.

**VII. Incidental Take Authorization of Covered Species:**

This ITP authorizes incidental take of the Covered Species and only the Covered Species. With respect to incidental take of the Covered Species, CDFW authorizes the Permittee, its employees, contractors, and agents to take Covered Species incidentally in carrying out the Covered Activities, subject to the limitations described in this section and the Conditions of Approval identified below. This ITP does not authorize take of Covered Species from activities outside the scope of the Covered Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species.

**VIII. Conditions of Approval:**

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area, including areas used for vessel ingress and egress, staging and parking, and noise and vibration generating activities that may cause take. CDFW’s issuance of this ITP and the Permittee’s authorization to take the Covered Species are subject to the Permittee’s compliance with and implementation of the following Conditions of Approval:

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<sup>4</sup>See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(2)(E).

- 1. Legal Compliance:** The Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** The Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Environmental Impact Report (SCH No.: 2021040532) certified by the County of Humboldt, Planning and Building Department on July 1, 2022 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The Permittee shall also implement and adhere to the mitigation measures specified in the CDFW addendum to the Environmental Impact Report that further analyzed the potential impacts of the decreased screen slot size. The addendum was finalized on February 6, 2025.
- 3. ESA Compliance:** The Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Endangered Species Act Section 7(a)(2) Biological and Conference Opinion, and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Humboldt Bay Harbor, Conservation, and Recreation District's Humboldt Bay Water Intakes Improvement Project in Samoa, California (Corps File #: SPN-2021- 00366N) (WCRO-202302878.) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
- 4. ITP Time Frame Compliance:** The Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as ATTACHMENT 1 to this ITP.
- 5. General Provisions:**
  - 5.1. Designated Representative.** Before starting Covered Activities, the Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. The Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
  - 5.2. Designated Biologist(s), Biological Monitor(s).** The Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (ATTACHMENT 2) or another format containing the same information at least 30 days before starting Covered Activities. The Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s)

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and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. The Permittee shall obtain CDFW approval of the Designated Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.

- 5.3. Designated Biologist Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. The Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of their duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. The Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.
- 5.4. Education Program.** The Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. The Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. The Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 5.5. Construction Monitoring Documentation.** The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully

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completed the education program. The Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.

- 5.6. Erosion Control Materials. The Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 5.7. Staging Areas. The Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas.
- 5.8. Hazardous Waste. The Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. The Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 5.9. CDFW Access. The Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under the Permittee's control and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.10. Refuse Removal. Upon completion of Covered Activities, the Permittee shall remove from the Project Area and properly dispose of all construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

## 6. Monitoring, Notification and Reporting Provisions:

- 6.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 6.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.
- 6.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur prior to the operation of the new seawater intake fish screens. During

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routine operation of the seawater intakes, the Designated Biologist shall be on-site monthly when Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum of monthly during periods of no construction and only routine operation of the intake continues and be on-site daily when screen cleaning or maintenance dredging activities are conducted. The Designated Biologist shall conduct compliance inspections to:

- (1) minimize incidental take of the Covered Species;
- (2) prevent unlawful take of species;
- (3) check for compliance with all measures of this ITP;
- (4) check all exclusion zones;
- (5) ensure that Covered Activities are only occurring in the Project Area; and
- (6) ensure compliance with Humboldt Bay Intake Screens Preliminary Baywater Operation and Maintenance Description, Revision 1, Redwood Marine Terminal II and Red Tank Dock, Samoa, California.

The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.

- 6.4. Quarterly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Heidi Carpenter (Heidi.Carpenter@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify the Permittee in writing of the new reporting schedule.
- 6.5. Annual Status Report.** The Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 6.4; (2) a general description of the status of the Project

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Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; and (6) information about other Project impacts on the Covered Species.

**6.6. CNDDDB Observations.** The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.

**6.7. Final Mitigation Report.** No later than 45 days after completion of all mitigation measures, the Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP including notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

**6.8. Notification of Take or Injury.** The Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW Regional Representative via email at Heidi.Carpenter@wildlife.ca.gov. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, the Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

**7. Take Minimization Measures:** The following requirements are intended to ensure the minimization of incidental take of Covered Species in the Project Area during Covered Activities. The Permittee shall implement and adhere to the following conditions to minimize take of Covered Species:

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- 7.1. Water Intake.** The Permittee shall not conduct intake of water without an operational fish screen attached to the intake pipe at RMT II Dock and Red Tank Dock.
- 7.2. Water Volume Limitation.** The Permittee shall not exceed a total daily seawater intake volume of 2.66 million gallons/day. If the daily intake volume is ever exceeded, the Permittee shall notify the Regional Representative via email within 24 hours of the exceedance. Additionally, the average daily intake shall be reported in each quarterly monitoring report as described in Condition of Approval 6.4.
- 7.3. Fish Screen Flow Velocity.** The Permittee shall perform measurements of the approach and sweeping velocities on the fish screen to verify that the required fish screen velocities are achieved. The first measurement shall occur prior to full implementation of the Project. Subsequent measurements shall occur every 3 months during operation to confirm the fish screen is operating as expected. These measurements of the fish screen velocities shall also be conducted prior to initiating each subsequent Project phase. The results of each fish screen velocity measurement shall be included in each quarterly report and summarized in each annual report.
- 7.4. Required Fish Screen Approach and Sweeping Velocities.** The Permittee shall ensure that the required fish screen approach velocity and sweeping velocity do not exceed 0.2 feet/second.
- 7.5. Fish Screen Cleaning and Inspection.** In addition to the automatic fish screen cleaning system that shall activate when the fish screen head pressure exceeds 0.1 feet/second, the Permittee shall conduct routine fish screen cleaning and inspection of the fish screens, including the fish screen cleaning system and support structures every three months. Cleaning and inspection shall be consistent with the protocols described in the Humboldt Bay Intake Screens Preliminary Baywater Operation and Maintenance Description Revision 1 which was included as Attachment 4 in the ITP application. Cleaning and inspection shall be adjusted over time based on seasonal increases in aquatic debris or noticeable increases in the self-cleaning mechanism being activated.
- 7.6. In-water Work Window.** The Permittee shall conduct all planned, non-emergency, in-water maintenance or repair work associated with the fish screen or fish screen support structures from July 1 through October 15.
- 7.7. In-water Work Outside of the Approved Work Window.** In-water work outside of the approved in-water work window described in Condition of Approval 7.6, shall be limited to routine screen maintenance and emergency repair or cleaning. Any in-water work between October 16 through June 30 shall implement the following procedures:

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**7.7.1.** CDFW Regional Representative shall be notified via email within 24 hours of in-water work occurring outside of the in-water work window.

**7.7.2.** From October 16 through March 31, the immediate area where in-water work is occurring shall be surveyed to identify the presence of Pacific herring eggs. Additionally, a visual survey of areas within 100 meters (300 feet) from where in-water work is occurring shall be conducted to identify indications of herring spawning activity. If eggs or spawning activity is identified, the CDFW Regional Representative shall be notified, and work shall be postponed until CDFW has provided written approval that work may proceed.

**7.7.3.** Within 30 days following any in-water work outside of the in-water work window a report shall be prepared and submitted to the CDFW Regional Representative identifying the extent of the work, approximate location, and whether the work may have caused additional impacts to the Covered Species.

**7.8. Covered Species Injury or Mortality.** The Permittee shall notify the Regional Representative within 24 hours if an injury or mortality of the Covered Species is discovered. Notification shall include where the Covered Species was found, when the injury or mortality may have occurred, and include a photo of the Covered Species to confirm identification.

**8. Habitat Management Land Acquisition and Restoration:** CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result from implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the protected acreage required to provide for adequate compensation.

To meet this requirement for Phase 1 of the Project, the Permittee shall provide for both the permanent protection and management of 0.93 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.3 below. Permanent protection and funding for perpetual management of HM lands must be complete before starting Covered Activities, or within 24 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations. Subsequent Phases of the Project will require additional HM Lands that will be determined upon submittal of an ITP amendment application. Phased 2 and 3 activities may not begin until an ITP amendment is completed and mitigation or security are provided for each phase. Current estimates are that Phase 2 will require an additional 2.56 acres of HM Lands and Phase 3 will require an additional 0.67 acres of HM Lands for a total mitigation requirement of 4.16 acres of HM Lands for all three Phases of the Project.

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**8.1. Cost Estimates.** For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands as follows:

**8.1.1.** Land acquisition costs for HM lands identified in Condition of Approval 8.2 below, estimated at \$129,925/acre for 4.411 acres: **\$573,100**. Land acquisitions costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements.

**8.1.2.** All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Condition of Approval 8.2.1 and 8.2.2 below: **\$13,200**.

**8.1.3.** Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.2.6 below, estimated at **\$145,563**.

**8.1.4.** Interim management period funding as described in Condition of Approval 8.2.7 below, estimated at **\$89,139**.

**8.1.5.** Long-term management funding as described in Condition of Approval 8.3 below, estimated at \$4840/acre for 4.411 acres over 10 years: **\$213,490**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.

**8.1.6.** Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 8.4, estimated at **\$3,300**.

**8.1.7.** All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work **\$220,000**.

**8.2. Habitat Management Lands Acquisition and Protection.** If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall:

**8.2.1. Fee Title.** Transfer fee title of the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person,

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or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.

- 8.2.2. Conservation Easement.** If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the “doctrine of merger” could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.
- 8.2.3. HM Lands Approval.** Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project’s impacts on Covered Species.
- 8.2.4. HM Lands Documentation.** Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services.
- 8.2.5. Land Manager.** Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. The Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.

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**8.2.6. Start-up Activities.** Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (Attachment 4) (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage.

**8.2.7. Interim Management (Initial and Capital).** Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management.

The Permittee shall either (1) provide Security to CDFW for the minimum of three years of interim management that the land owner, the Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.

**8.3. Endowment Fund.** If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, the Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 8.2.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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After the interim management period, the Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.

- 8.3.1. Identify an Endowment Manager.** The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended.

The Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e).

Within thirty days of CDFW's receipt of the Permittee's written proposal, CDFW shall inform the Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(3) and, if so, shall provide the Permittee with a written explanation of the reasons for its determination. If CDFW does not provide the Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(3).

- 8.3.2. Calculate the Endowment Funds Deposit.** After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, the Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.

- 8.3.2.1. Capitalization Rate and Fees.** The Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the endowment assessment and adjust for any additional administrative, periodic, or annual fees.

8.3.2.2. Endowment Buffers/Assumptions. The Permittee shall include in the endowment assessment assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:

8.3.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.

8.3.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.

8.3.2.2.3. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.

**8.3.3.** Transfer Long-term Endowment Funds. The Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.

**8.3.4.** Management of the Endowment. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

Notwithstanding Probate Code sections 18501-18510, the Endowment Manager shall not make any disbursement from the Endowment that will result in expenditure of any portion of the principal of the endowment without the prior written approval of CDFW in its sole discretion. The Permittee shall ensure that this requirement is included in any agreement of any kind governing the holding, investment, management, and/or disbursement of the Endowment funds.

Notwithstanding Probate Code sections 18501-18510, if CDFW determines in its sole discretion that an expenditure needs to be made from the Endowment to preserve the conservation values of the HM lands, the Endowment Manager shall process that expenditure in accordance with directions from CDFW. The Endowment Manager shall not be liable for any shortfall in the Endowment resulting from CDFW's decision to make such an expenditure.

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**8.4. Reimburse CDFW.** The Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of this ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

**9. Security:** The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 8 that has not been completed before Covered Activities begin. The Permittee shall provide Security as follows:

**9.1. Security Amount.** The Security shall be in the amount of **\$1,257,792** or in the amount identified in 8.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 8.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.

**9.2. Security Form.** The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.

**9.3. Security Timeline.** The Security shall be provided to CDFW before Covered Activities begin.

**9.4. Security Holder.** The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.

**9.5. Security Transmittal.** The Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.

**9.6. Security Drawing.** The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.

**9.7. Security Release.** The Security (or any portion of the Security then remaining) shall be released in phases to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:

- Written documentation of the acquisition of the HM lands;
- Copies of all executed and recorded conservation easements;
- Written confirmation from the approved Endowment Manager of its receipt of the full Endowment;
- Timely submission of all required reports; and

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- Commencement of restoration activities.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 24 months from the effective date of this ITP. If habitat restoration activities are the only outstanding requirement and have not commenced within 24 months of the effective date of this ITP, CDFW shall hold the security dollar amounts specified in ITP conditions 8.1.3-8.1.5, and 8.1.7 until restoration construction activities are completed. At its discretion, CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

**IX. Amendment:**

This ITP may be amended as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable law. This ITP may be amended without the concurrence of the Permittee as required by law, including if CDFW determines that continued implementation of the Project as authorized under this ITP would jeopardize the continued existence of the Covered Species or where Project changes or changed biological conditions necessitate an ITP amendment to ensure that all Project-related impacts of the taking to the Covered Species are minimized and fully mitigated.

**X. Stop-Work Order:**

If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue the Permittee a written stop-work order instructing the Permittee to suspend any Covered Activity for an initial period of up to 30 days or risk suspension or revocation of this ITP. CDFW can issue a stop-work order to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species, regardless of whether that species is a Covered Species under this ITP. The Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to the Permittee, CDFW may extend any stop-work order issued to the Permittee for a period not to exceed 30 additional days.

If the Permittee fails to remedy the violation or to comply with a stop-work order, CDFW may proceed with suspension and revocation of this ITP. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

**XI. Compliance with Other Laws:**

This ITP sets forth CDFW's requirements for the Permittee to implement the Project pursuant to CESA. This ITP does not necessarily create an entitlement to proceed with the Project. The Permittee is responsible for complying with all other applicable federal, state, and local law.

**XII. Notices:**

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2023-053-07) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Craig Shuman, Regional Manager  
California Department of Fish and Wildlife  
Craig.Shuman@wildlife.ca.gov

and a copy to:

Habitat Conservation Planning Branch  
California Department of Fish and Wildlife  
CESA@wildlife.ca.gov

Unless the Permittee is notified otherwise, CDFW's Regional Representative for purposes of addressing issues that arise during implementation of this ITP is:

Heidi Carpenter, Environmental Scientist  
California Department of Fish and Wildlife  
Telephone (831) 901-9887  
Heidi.Carpenter@wildlife.ca.gov

**XIII. Compliance with the California Environmental Quality Act:**

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, Humboldt County. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Nordic Aquafarms California, LLC Land-based Aquaculture Project, (SCH No.: 2021040532) dated December 17, 2021 that the Humboldt County certified for Nordic Aquafarms California, LLC Land-based Aquaculture Project on July 1, 2022. At the time the lead agency certified the Environmental Impact Report (EIR) and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings and CEQA addendum analyzing minor changes to the Project, which are available as separate documents, provide evidence of CDFW's consideration of

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the lead agency's EIR for the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

#### **XIV. Findings Pursuant to CESA:**

These findings are intended to document CDFW's compliance with the specific findings requirements set forth in CESA and related regulations. (Fish & G. Code § 2081, subs. (b)-(c); Cal. Code Regs., tit. 14, §§ 783.4, subds, (a)-(b), 783.5, subd. (c)(2).)

CDFW finds based on substantial evidence in the ITP application and the Nordic Aquafarms California, LLC Land-based Aquaculture Project EIR, CDFW CEQA EIR addendum, the results of site visits, consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Quarterly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 0.93 acres of compensatory habitat, for Phase 1 of the project, that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain the Permittee's objectives to the greatest extent

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possible;

- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) The Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

**XV. Attachments:**

FIGURE 1	Project Location
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Guide for Writing Land Management Plans
ATTACHMENT 5	Mitigation Payment Transmittal Form

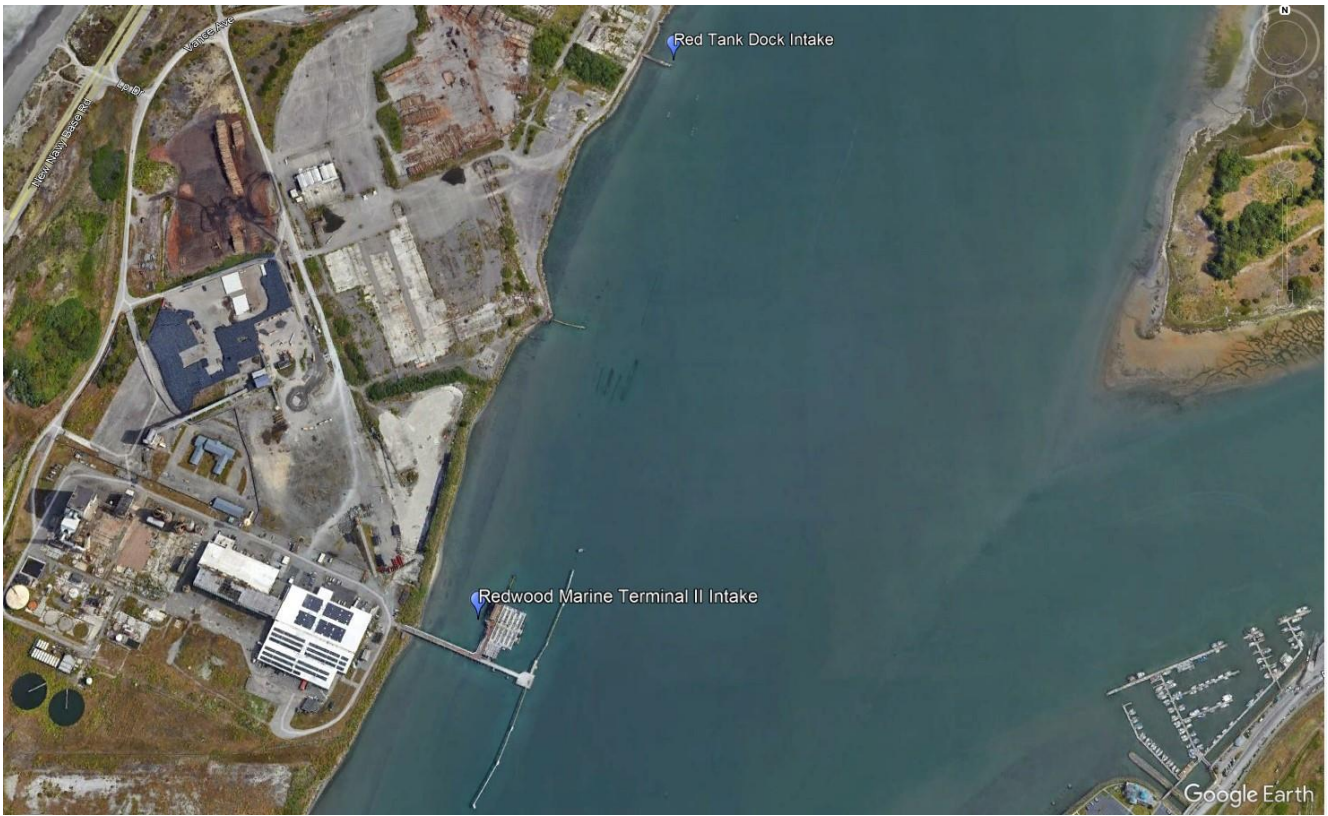
**ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 02/06/2025**



Craig Shuman, D. Env., Regional Manager  
Marine Region

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**FIGURE 1.** Project Location